

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CRIMINAL CASE NO 17 OF 2020 (MURDER)

REPUBLIC.....PROSECUTOR

VERSUS

CLEMENSIA NYAMOITA NYABUTO.....ACCUSED

RULING ON SENTENCING

1. On the 29/10/2021 **Clemensia Nyamoita Nyabuto** was convicted of the murder of **Concepta Mogere Momanyi**.
2. The accused is a 1st offender I sought a pre-sentence report on the accused person.
3. The report indicates that the accused is 39 years old, she is a mother of 3 children who are in school and depend on her.
4. That the victim's husband has forgiven her and that the family members are positive and they request for a non-custodial sentence and that the local administrator is equally positive. The report recommends a non-custodial sentence of probation and to undergo trauma debriefing and anger management session.
5. The accused person mitigation was that she is very remorseful for the events of 25/5/2020 and that she begs for forgiveness.
6. I have taken into account the Judiciary Sentencing Policy Guidelines. Punishment for a person convicted of murder is death.
7. From the evidence adduced the accused attacked the deceased at her home. The weapons she used caused grievous harm to the deceased. A life was lost as a result of her actions. In her defence she did not raise any issue of provocation. This came out during cross-examination by the prosecution. Though a non-custodial sentence has been recommended. In my view the accused's action warrants a custodial sentence. I therefore sentence **Clemensia Nyamoita Nyabuto** to six (6) years imprisonment. Right of Appeal explained.

DATED, SIGNED AND DELIVERED AT KISII THIS 30TH DAY OF NOVEMBER 2021.

R.E. OUGO

JUDGE

In the presence of;

Accused - Present

Miss Nduhukire for the Accused Person

Mr. Morande - State Counsel ODDP

Isindu - Court Assistant